

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.5953 of 2025

1. Ram Prasad Singh, son of late Ram Nirog Singh, resident of Bag Dulhan, Hajipur, Vaishali, PO and PS Hajipur, District Vaishali, Bihar
2. Shubhendra Narayan Choudhary, son of late Kandarp Narayan Choudhary, resident of ward no. 24, Kailash Puri, Pandit B.N. Jha Road, Pokhna Tila, PO and PS Deoghar, District Deoghar, Jharkhand
3. Sudhir Kumar Choudhary, son of late Jatendra Narayan Choudhary, resident of Ward No. 13, Karpuri Path, Lohia Nagar, PO and PS Godda, District Godda, Jharkhand
4. Vijay Kumar, son of Kamleshwari Prasad Choudhary, resident of Sundar Lal Mishra Road, Subhash Chowk, Kaster Town, PO and PS Deoghar, District Deoghar, Jharkhand

... .. **Petitioner(s)**

Versus

1. The State of Jharkhand
2. The Principal Secretary, Department of Finance, Government of Jharkhand, Project Bhawan, Dhurwa, P.O. and PS- Dhurwa, District-Ranchi.
3. The Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand, Project Bhawan, Dhurwa, P.O. and PS- Dhurwa, District-Ranchi.
4. The Joint Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand, Project Bhawan, Dhurwa, P.O. and PS- Dhurwa, District-Ranchi.
5. The Accountant General, Jharkhand, Project Bhawan, Dhurwa, P.O. and PS- Dhurwa, District-Ranchi.

... .. **Respondent(s)**

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s)	:	Mr. Vinay Kr. Tiwary, Advocate Mr. Vishwanath Moon, Advocate
For the State		Mr. Rahul Kamlesh, AC to SC IV

02/ 06th November, 2025

Heard the parties.

2. The petitioners in this petition prays for a direction in a nature of *Mandamus* commanding upon the respondent authorities to revise and refix the benefits and grant them DACP and consequential benefits as per the 5th and 6th Pay Revision from 05.04.2002 and 29.10.2008 in light of the observations made in order dated 02.08.2023 passed by the Division Bench in L.P.A.

No.86 of 2018. They further prayed that a direction may be given to the respondent authorities to release the arrears and all consequential benefits after re-fixation of DACP benefits.

3. The petitioners are the persons from Medical Cadre.

4. Admittedly, the DACP scheme was floated and the same has been extended to all the persons of Medical Cadre. The cut-off date was fixed by the Government. Later on, it was modified to 01.09.2008, vide Resolution dated 11.09.2013. Earlier the said scheme was made effective from 05.04.2002 in light of 5th Pay Revision and benefit of DACP w.e.f., 29.10.2008 in the light of the 6th Pay Revision. The benefits were granted w.e.f., 05.04.2002 and the actual benefit from 29.10.2008 and the financial benefit from 01.04.2009. Pursuant to the order dated 11.09.2013, the Department of Health, Medical Education & Family Welfare, Government of Jharkhand issued a Notification dated 15.01.2014 whereby benefits of DACP granted to all the eligible employees vide Notification dated 02.04.2013 was withdrawn. Being aggrieved, some of the employees filed writ petitions. The writ petitions were dismissed. Challenging the order of the writ Court, LPA No.86 of 2018 was filed. The said Letters Patent Appeal was heard and decided by Division Bench of this Court. Letters Patent Appellate Court vide judgment dated 02.08.2023, allowed the Letters Patent Appeal by setting aside the judgment of the learned Single Judge. It was held that shifting of the date was not proper. The order passed in the Letters Patent Appeal was challenged before the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.52346 of 2023. The Hon'ble Supreme Court vide order dated 19.02.2024, dismissed the Special Leave Petition, keeping open the question of law.

5. Since the order has been passed by the Division Bench holding that the shifting of the date of DACP is not proper, these petitioners who were affected by shifting of such date has now approached this Court claiming the same benefit which was granted to the litigations who had approached this Court by filing Letters Patent Appeal No.86 of 2018.

6. It is the case of the petitioners that since similar benefit has been granted to similarly situated persons, the fact that the petitioners have not earlier approached the Court, cannot come in their way to get the same benefits. It is stated what has been decided in Letters Patent Appellate Court is that shifting of the date is bad. Once it has been held that the shifting of the date is bad, consequential benefits should be granted not only to the appellants in Letters Patent Appeal but also to other similarly situated person who was put at a disadvantageous position due to shifting of the said date.

7. Learned counsel appearing on behalf of the State submits that admittedly the petitioners did not file any writ petition challenging the action of respondents by which the dates were shifted and rather they have approached this Court now for the first time. He submits that the petitioners were fence sitters, thus they are not entitled to get any relief.

8. The admitted facts is that the date of DACP was changed by the State by virtue of a Resolution which was ultimately set aside by the Division Bench of this Court. The effect of this order is that the date which was fixed earlier is the only crucial date for the purpose of grant of DACP and there cannot be any other second date. Once a particular date has been fixed, all the persons who come within the zone of consideration must get the same benefit. The Judgment which declares that the cut-off date is bad, it is not *in personem* and rather it is *in rem*. It is the policy decision of the State which has been struck down which automatically revives the earlier policy. When the particular policy has been revived, all the persons, who are within the zone are entitled to get the benefit of the policy, no matter whether they have approached the Court or not.

9. In a recent Judgment of the Hon'ble Supreme Court in the case of "***Lt. Col Suprita Chandel Vs. Union of India & Ors.***" reported in **2024 SCC Online SC 3664**, the Hon'ble Supreme Court dealt with more or less a similar issue. The Hon'ble Supreme Court in Paragraph 14 of the aforesaid Judgment has held that

when a declaration of law is obtained in favour of the party, other similarly situated ought to be extended the same benefit. Further in Paragraph No.15, the Hon'ble Supreme Court had taken note of the judgment passed in "***K.I. Shephard Vs. Union of India, reported in (1987) 4 SCC 431*** and has emphasized that some excluded employees have not come to the Court cannot be a ground to penalize them for not having litigated. They are also entitled for the same benefits.

10. In paragraph No.16, it has also been held that the case would be different if some persons are expressly prohibited to get the same benefits, then only the others who have not approached the Court, can be prevented to get the same benefit. It is necessary to quote Paragraph Nos.14, 15 & 16 for better appreciation;

"14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]

15. In K.I. Shephard vs. Union of India, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-

"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners.
...." (Emphasis Supplied)

16. No doubt, in exceptional cases where the court has expressly prohibited the extension of the benefit to those who have not approached the court till then or in cases where a grievance in personam is redressed,

the matter may acquire a different dimension, and the department may be justified in denying the relief to an individual who claims the extension of the benefit of the said judgment."

11. It is also necessary to quote Paragraph No.18 & 19 where in the Hon'ble Supreme Court deals with discrimination and fairness which has to be followed and the standard which has to be adopted which cannot be unreasonable. Paragraph Nos.18 & 19 are as under:-

"18. The respondent authorities on their own should have extended the benefit of the judgment of AFT, Principal Bench in OA No.111 of 2013 and batch to the appellant. To illustrate, take the case of the valiant Indian soldiers bravely guarding the frontiers at Siachen or in other difficult terrain. Thoughts on conditions of service and job perquisites will be last in their mind. Will it be fair to tell them that they will not be given relief even if they are similarly situated, since the judgment they seek to rely on, was passed in the case of certain applicants alone who moved the court? We think that would be a very unfair scenario. Accepting the stand of the respondents in this case would result in this Court putting its imprimatur on an unreasonable stand adopted by the authorities.

19. The stand of the Department relying on the judgment of this Court in State of Maharashtra vs. Chandrakant Anant Kulkarni, (1981) 4 SCC 130 to contend that mere reduction in chance of consideration did not result in deprivation of any right does not appeal to us. The appellant's case is founded on the principle of discrimination. What is sauce for the goose ought to be sauce for the gander. If the applicants in O.A. No. 111 of 2013 whom we find are identically situated to the appellant were found to be eligible to be given a third chance for promotion, because they acquired eligibility before the amendment to AI No. 37 of 1978 on 20.03.2013, we find no reason why the appellant should not be treated alike."

12. This Court in another writ petition W.P.(S) No.38/2025 **(Dr. Ganesh Chandra Sinha Vs. The State of Jharkhand & Ors.) [Neutral Citation No.- 2025:JHHC:24327]** while deciding similar issue involving the same DACP scheme has held that when in principle an entitlement of a group of persons has already been decided, it is immaterial as to who are the person who were appearing before the Court in the litigation. Benefits of the policy decision should be granted to all even if they are not a party to the

litigation. It has also been held that this will avoid unnecessary litigation also. Similarly situated persons who even if have not appeared before the Court are entitled for same service benefits and the State cannot deny the same, as the persons who were not given the benefit and the persons who got the same are not a separate category.

13. Thus, in view of what has been held above, I am inclined to allow this writ petition. The respondents are directed to give similar benefits to the petitioners and other similarly situated persons in terms of the judgment of the Hon'ble Division Bench of the High Court in L.P.A No.86/2018, **(Dr. Shyam Sundar Singh & Ors. Vs. The State of Jharkhand & Ors.)** where it has already been held the shifting of the cut-off date is not proper.

14. The consequential benefits should be released in favour of these petitioners within eight weeks from the date of receipt of the copy of this order.

15. Since the issue has already been decided and the judgment of the Hon'ble Division Bench of this Court is confirmed by the Apex Court, it is expected that all the similarly situated persons who falls within the same class should be given the same benefits irrespective of the fact that they have filed any litigation before this Court or not.

16. With the aforesaid observations, this writ petition stands **allowed**.

(ANANDA SEN, J.)